

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

RECEIVED

OCT - 4 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Joint Application by SBC Communications)
Inc., Southwestern Bell Telephone Company,)
and Southwestern Bell Communications)
Services, Inc. d/b/a Southwestern Bell Long)
Distance for Provision of In-Region,)
InterLATA Services in Arkansas and Missouri)

CC Docket No. 01-194

REPLY AFFIDAVIT OF WILLIAM R. DYSART

STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS)

**TABLE OF CONTENTS
PERFORMANCE MEASUREMENTS REPLY AFFIDAVIT**

<u>SUBJECT</u>	<u>PAGE</u>
PURPOSE AND SCOPE OF AFFIDAVIT	1
SWBT'S PERFORMANCE MEASUREMENTS RESULTS DEMONSTRATE CONTINUED COMPLIANCE WITH THE CHECKLIST ITEMS.....	2
EL PASO/PACWEST'S LOOP PROVISIONING CLAIMS ARE DATED AND MISCHARACTERIZE SWBT'S TRUE PERFORMANCE.	5
<i>DSL Loop Provisioning in Arkansas</i>	<i>6</i>
<i>BRI Loop Provisioning in Arkansas.....</i>	<i>7</i>
<i>Stand Alone DSL Loop Provisioning in Arkansas.....</i>	<i>9</i>
<i>DSL Loop Provisioning in Missouri.....</i>	<i>10</i>
<i>Line Shared DSL Loop Provisioning in Missouri</i>	<i>12</i>
<i>DS3 and Dark Fiber Performance Measurements</i>	<i>13</i>
NAVIGATOR'S NEBULOUS "UNE TI," "COMPLEX SERVICES" AND "REPAIR" CLAIMS CANNOT BE SUBSTANTIATED AND DO NOT ACCOUNT FOR SWBT'S STRONG PERFORMANCE RESULTS.	14
SWBT'S STRONG FLOW-THROUGH PERFORMANCE PROVIDES CLECS A MEANINGFUL OPPORTUNITY TO COMPETE AND IS NOT UNDERMINED BY RESTATEMENTS IN PM 13.....	19
THE CLECS' REMEDY PLAN COMPLAINTS SHOULD BE REJECTED.	27

SWBT'S PERFORMANCE REMEDY PLANS ARE SELF-EXECUTING.	28
SWBT HAS BEEN AND REMAINS COMMITTED TO THE SIX-MONTH REVIEW PROCESS.....	41
CRITICISMS OF THE STATISTICAL METHODOLOGIES USED IN SWBT'S PERFORMANCE REMEDY PLANS ARE UNFOUNDED.....	47
THE TEST USED FOR BENCHMARK MEASURES IS A STATISTICAL TEST.	47
THE STATISTICAL TEST DOES NOT ARBITRARILY REDUCE THE ASSOCIATED BENCHMARK.	49
THE STATISTICAL PROCESS IN THE PERFORMANCE REMEDY PLAN AUTOMATICALLY SANCTIONS DEFICIENT PERFORMANCE.	51
Z-TEL FAILS TO FULLY RECOGNIZE OTHER ASPECTS OF THE PERFORMANCE REMEDY PLAN.	52
SWBT ARKANSAS PERFORMANCE MEASUREMENT RESULTS (JUNE 2001 – AUGUST 2001).....	ATTACHMENT A
SWBT MISSOURI PERFORMANCE MEASUREMENT RESULTS (JUNE 2001 – AUGUST 2001).....	ATTACHMENT B
SWBT ARKANSAS DOJ PERFORMANCE MEASUREMENTS TRACKING REPORT (AUGUST 2001).....	ATTACHMENT C
MISSOURI DOJ PERFORMANCE MEASUREMENTS TRACKING REPORT (AUGUST 2001).....	ATTACHMENT D
TEXAS DOJ PERFORMANCE MEASUREMENTS TRACKING REPORT (AUGUST 2001).....	ATTACHMENT E
PERFORMANCE RESULTS FOR NAVIGATOR TELECOMMUNICATIONS, LLC	ATTACHMENT F
LETTER TO THE PUBLIC UTILITY COMMISSION OF TEXAS FROM SOUTHWESTERN BELL TELEPHONE DATED SEPTEMBER 17, 2001.....	ATTACHMENT G
PERFORMANCE RESULTS FOR AT&T CORP.....	ATTACHMENT H

I, William R. Dysart, being of lawful age and duly sworn upon my oath, do hereby depose and state as follows:

1. My name is William R. Dysart. I am the same William R. Dysart who filed with the Federal Communications Commission ("FCC" or "Commission"), on behalf of Southwestern Bell Telephone Company ("SWBT"), initial affidavits ("*Initial Dysart Arkansas Affidavit*" (App. A – AR, Tab 7 to SWBT's initial AR/MO Application) and "*Initial Dysart Missouri Affidavit*" (App. A – MO, Tab 6 to SWBT's initial AR/MO Application)) and a joint affidavit with Daniel J. Coleman and David R. Smith ("*LMOS Joint Affidavit*" (App. A – AR, Tab 5 to SWBT's initial AR/MO Application; App. A – MO, Tab 4 to SWBT's initial AR/MO Application)) on August 20, 2001 in this proceeding.

PURPOSE AND SCOPE OF AFFIDAVIT

2. The purpose of my affidavit is to reply to the comments of AT&T,¹ El Paso/PacWest,² McLeodUSA,³ Navigator,⁴ Sprint⁵ and Z-Tel⁶ regarding SWBT's wholesale performance in Arkansas and Missouri, and the protections afforded by SWBT's Arkansas and Missouri Performance Remedy Plans against potential "backsliding." My affidavit demonstrates that, notwithstanding the few challenges to the strength of SWBT's wholesale performance,

¹ Comments of AT&T Corp., CC Docket No. 01-194 (FCC filed Sept. 10, 2001) ("*AT&T Comments*"); AT&T Comments, Declaration of Sarah DeYoung ("*DeYoung Declaration*"); AT&T Comments, Joint Declaration of Walter W. Willard and Mark Van de Water ("*Willard/Van de Water Declaration*").

² Comments of El Paso Networks, LLC. and PacWest Telecom, Inc., CC Docket No. 01-194 (FCC filed Sept. 10, 2001) ("*El Paso/PacWest Comments*").

³ Comments of McLeodUSA, Inc., CC Docket No. 01-194 (FCC filed Sept. 10, 2001) ("*McLeodUSA Comments*").

⁴ Comments of Navigator Telecommunications, LLC., CC Docket No. 01-194 (FCC filed Sept. 10, 2001) ("*Navigator Comments*").

⁵ Comments of Sprint Inc., CC Docket No. 01-194 (FCC filed Sept. 10, 2001) ("*Sprint Comments*").

⁶ Comments of Z-Tel Communications, Inc., CC Docket No. 01-194 (FCC filed Sept. 10, 2001) ("*Z-Tel Comments*"); Z-Tel Comments, Declaration of George S. Ford ("*Ford Declaration*").

SWBT continues to provide Arkansas and Missouri CLECs with a meaningful opportunity to compete in the local exchange market. My affidavit also demonstrates that AT&T's and other commenters' criticisms about the "self-executing" feature of SWBT's Performance Remedy Plans, as well as their criticisms about SWBT's commitment to the six-month performance measurements review process, are thoroughly misplaced. Indeed, key considerations omitted by the commenters provide even more assurances that these plans, and SWBT's commitment to implementing them as intended, can be counted on to foster post-entry checklist compliance. Finally, my affidavit demonstrates that Z-Tel's criticisms of the statistical methodologies employed in SWBT's plans are unfounded and should be rejected.

**SWBT'S PERFORMANCE MEASUREMENTS RESULTS DEMONSTRATE
CONTINUED COMPLIANCE WITH THE CHECKLIST ITEMS**

3. SWBT's performance results demonstrate that SWBT continues to provide competitive local exchange carriers ("CLECs") a meaningful opportunity to compete in the Arkansas and Missouri local telephone markets. In particular, these results demonstrate that SWBT provides Arkansas and Missouri CLECs nondiscriminatory access to the pertinent 14 point checklist items specified in Section 271 of the Telecommunications Act of 1996 ("the Act").⁷

4. On September 4, 2001 the Missouri Public Service Commission ("Missouri Commission") took special note of its Staff's June 28 observation that SWBT's performance

⁷ SWBT's performance measurement data for Arkansas and Missouri during the three-month period of June - August 2001 are presented in Attachments A and B, respectively. The August 2001 Department of Justice ("DOJ") Performance Measurements Tracking Reports for Arkansas and Missouri are Attachments C and D, respectively. In addition, the August 2001 DOJ Performance Measurements Tracking Report for Texas is Attachment E, representing an updating of information previously provided that the Commission may find useful to its analysis.

reflected the “highest success ratios . . . to date.”⁸ In its Second Consultation Report, the Arkansas Public Service Commission (“Arkansas Commission”) specifically rejected commenters’ complaints of deficient performance.⁹ SWBT’s most recent results reflect continued strength. In fact, as noted in greater detail below, these results are better than those which accompanied SWBT’s reply filing preceding the FCC’s issuance of its *SBC Kansas/Oklahoma Order*.¹⁰

5. In Arkansas, SWBT’s performance met or surpassed parity or benchmark standards for 94.3% (215 of 228) performance measures having ten or more data points for at least two of the last three months. SWBT provided parity service to Arkansas CLECs or met the benchmark for 96.3% (131 of 136) of Tier 2 measures and 96.2% (151 of 157) of Tier 1 and/or Tier 2 measures in at least two of the last three months.

6. In Missouri, SWBT’s performance met or surpassed parity or benchmark standards for 94.2% (277 of 294) of the performance measures having ten or more data points

⁸ Order Denying Motions to Reconsider Recommendation and Opening Case for Monitoring Purposes at 4, *Application of Southwestern Bell Telephone Company to Provide Notice of Intent to File an Application for Authorization to Provide In-Region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996*, Missouri Public Service Commission, Case No. TO-99-227 (filed Sept. 4, 2001).

⁹ Second Consultation Report of the Arkansas Public Service Commission to the Federal Communications Commission Pursuant to 47 USC Section 271(d)(2)(B) at 10-11, *Application Of Southwestern Bell Telephone Company For Authorization To Provide In-Region InterLATA Services Pursuant To Section 271 Of The Telecommunications Act Of 1996 And For The Approval Of The Arkansas Interconnection Agreement*, Arkansas Public Service Commission, Docket No. 00-211-U (May 21, 2001) (App. C – AR, Tab 86 to SWBT’s initial AR/MO Application) (noting, with respect to installation of standalone DSL loops, that “[t]his Commission agrees with the FCC’s statement that the ‘parties generally point to disparity in SWBT’s performance data without providing additional evidence of competitive harm.’”)

¹⁰ Memorandum Opinion and Order, *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, 16 FCC Rcd 6237 (2001) (“*SBC Kansas/Oklahoma Order*”); Reply Affidavit of William R. Dysart, *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217 (FCC filed Dec. 11, 2000) (“*Dysart Kansas/Oklahoma Reply Affidavit*”).

during at least two of the last three months. SWBT provided parity service to Missouri CLECs or met benchmark performance levels for 96.6% (173 of 179) of Tier 2 measures and 96.1% (195 of 203) of Tier 1 and/or Tier 2 measures in at least two of the last three months.

7. The foregoing performance levels for both Arkansas and Missouri exceed those reported for both Kansas and Oklahoma in the *Dysart Kansas/Oklahoma Reply Affidavit*. During the three-month period concluding in October, 2000, SWBT's Kansas performance met or surpassed parity or benchmark standards for 88.2% of the performance measures having ten or more data points for at least two of the last three months, 89.1% of Tier 2 measures, and 89.1% of Tier 1 and/or Tier 2 measures in at least two of the three months. During the same period, SWBT's Oklahoma performance met or surpassed parity or benchmark standards for 87.2% of the performance measures having ten or more data points for at least two of the last three months, 86.8% of Tier 2 measures, and 84.5% of Tier 1 and/or Tier 2 measures in at least two of the three months.¹¹

8. SWBT's Arkansas performance results further demonstrate that the performance standards (either parity or a benchmark) have been met in at least two of the past three months for 95.4% of the 131 measures directly associated with checklist item (ii) – access to network elements and OSS. These results refute Navigator's allegation that SWBT has failed to comply with checklist item (ii) – access to network elements and OSS in Arkansas.¹² Likewise, in Missouri, SWBT has met or surpassed the performance standards (either parity or benchmarks) in at least two of the past three months (June - August) for 92.7% of the 164 measures associated

¹¹ *Dysart Kansas/Oklahoma Reply Affidavit*, Attachment C at 11 & Attachment D at 11.

¹² *Navigator Comments* at 2.

with checklist item (ii). These results disprove the assertion of El Paso/PacWest that “SBC’s continuing OSS problems fail to satisfy checklist item 2” in Missouri.¹³ In sum, both commenters’ complaints are without merit given SWBT’s strong overall OSS performance.

El Paso/PacWest’s Loop Provisioning Claims Are Dated and Mischaracterize SWBT’s True Performance

9. El Paso/PacWest assert that “poor provisioning of x-DSL, DS 1 and BRI loops have impeded development of a competitive DSL market in Arkansas.”¹⁴ They also complain about provisioning of DSL line shared loops and DS1 loops in Missouri.¹⁵ However, neither provides any concrete data or other evidence supporting their claim. Moreover, their reliance on AT&T’s April 12, 2001 comments filed with the Arkansas Commission is misplaced because, first, those comments have been superseded by more recent data spanning several months and, second, AT&T has since abandoned the claim it once made about SWBT’s Arkansas loop provisioning performance.¹⁶ SWBT’s current data reflect continued strong performance with respect to the loop types identified by El Paso/PacWest.

¹³ *El Paso/Pac West Comments* at 20. El Paso/PacWest criticize that over the December 2000 – February 2001 period, SWBT achieved a success rate of “only 89.6%” for the OSS-related measurements, and that over the April – June 2001 period, SWBT’s “‘success’ figure has actually dropped slightly to 89.5%.” *Id.* at 22. These CLECs’ concerns about SWBT’s prior OSS performance data have no basis in the data, and neither CLEC demonstrates any adverse competitive impact as a result of SWBT’s performance for that CLEC. In any case, SWBT’s more recent and even better (92.7%) performance eliminates these CLECs’ concerns.

¹⁴ *Id.* at 11.

¹⁵ *Id.* at 11.

¹⁶ AT&T’s comments do not challenge SWBT’s loop provisioning performance in either Arkansas or Missouri.

DS1 Loop Provisioning in Arkansas

10. The vague criticism of El Paso/PacWest, as well as the equally unspecific claim of Navigator,¹⁷ are refuted by SWBT's DS1 performance results for Arkansas CLECs. These results reflect strong performance despite these CLECs' complaints.

11. SWBT's performance results for PM 55-04.1 (Average Installation Interval – DS1 Loops – 1-10 Loops) demonstrate that SWBT met or surpassed the three-day target for installing UNE DS1 orders for ten or fewer loops in seven of the last eight months, falling short in March by just 0.3 of a day. Over this period, the average installation interval for Arkansas CLECs was 2.8 days, under the three-day target. In addition, SWBT effectively met or surpassed the 95% benchmark in seven of the last eight months for PM 56-04.1 (Percent (UNEs) Installations Completed Within the Customer Requested Due Date – DS1 Loop – 1-10 Loops). Over this period, SWBT installed 97.0% of Arkansas CLECs' orders for ten or fewer UNE DS1 loops within the requested due dates, exceeding the 95% benchmark.

12. SWBT's on time performance for provisioning Arkansas CLECs' DS1 loops is excellent. During the period from April through August 2001, SWBT missed only 8 of 393 (or just 2.0%) DS1 loop installation due dates, according to the results for PM 58-06 (Percent SWBT Caused Missed Due Dates – DS1 Loop). Furthermore, in two of these months, SWBT achieved perfect performance, missing none of the due dates for the 68 UNE DS1 loops installed in April or the 79 UNE DS1 loops installed in May. Only one of the 81 UNE DS1 loops installed in June was affected by a missed due date.

13. Finally, SWBT has provided DS1 loops of high quality. Performance data for PM 59-05 (Percent Trouble Reports Within 30 Days of Installation - N, T, C Orders - (UNE) DS1 Loops) demonstrate that just 49 (9.1%) of the 538 UNE DS1 loops installed for Arkansas CLECs since January were affected by trouble reports within 30 days of installation. Additionally, performance results for PM 65-05 (Trouble Report Rate – DS1 Loop) reflect that SWBT has achieved parity in each of the last five months.

BRI Loop Provisioning in Arkansas

14. SWBT's performance results disprove El Paso/PacWest's dated and nonspecific criticisms that SWBT's poor provisioning of BRI loops have impeded development of a competitive DSL market in Arkansas.¹⁸ The average installation interval for Arkansas CLECs' orders for ten or fewer BRI loops has surpassed the four-day target interval in each of the past ten months during which such orders were received.¹⁹ The average installation interval for CLEC orders over the September 2000 - August 2001 period was 2.7 days, well under the four-day target, as indicated by the available data for PM 55-03.1 (Average Installation Interval – BRI Loop – 1-10 Loops).

15. In addition, SWBT effectively met or surpassed the 95% benchmark for PM 56-03.1 (Percent (UNEs) Installations Completed Within the Customer Requested Interval – BRI

¹⁷ Navigator vaguely asserts that its own experience is that SWBT "has been unable to install a UNE T1 correctly on the first attempt" and that SWBT has failed to "timely perform the provisioning of complex services." *Navigator Comments* at 10. Navigator's CLEC-specific claims are treated separately in my affidavit.

¹⁸ *El Paso/PacWest Comments* at 11.

¹⁹ No orders requesting the standard interval were received in December 2000. Furthermore, fewer than ten orders were received requesting the standard interval in each of the other eleven of the past twelve months.

Loop – 1-10 Loops)²⁰ in each of the past nine months during which orders were received. Over the past twelve months, 97.3% of Arkansas CLECs' orders for ten or fewer BRI loops were installed within the customer requested due date (or three days prior to May 2001), as indicated by the available data for PM 56-03.1.²¹

16. Furthermore, Arkansas CLECs' orders for BRI loops typically are affected by lower percentages of missed due dates than SWBT's retail loops. SWBT has demonstrated parity performance in all six of the past twelve months during which ten or more CLEC BRI loops were installed, as shown by the data for PM 58-04 (Percent SWBT Caused Missed Due Dates – BRI Loop). SWBT installed 101 BRI circuits for Arkansas CLECs over the past ten months without missing a single due date.

17. Finally, SWBT provides Arkansas CLECs high quality BRI loops. Its performance results achieved parity in five of the past six months with sufficient sample sizes for PM 59-03 (Percent Trouble Reports within 30 Days of Installation – N, T, C Orders – BRI Loop).²² Only five (5.0%) of the 101 BRI circuits installed for Arkansas CLECs over the past ten months were affected by installation trouble reports, comparable to the 3.0% installation trouble report rate experienced by SWBT's retail customers.

²⁰ Prior to May 2001, PM 56 measured the percent within "X" days and for PM 56-03.1 the standard interval was three days.

²¹ CLEC orders exceeded ten only in the most recent month. In August 2001, 100% of Arkansas CLECs' orders for ten or fewer BRI loops were installed within the customer (CLEC) requested due dates.

²² SWBT achieved parity for PM 59-03 in August 2000, January – March and August 2001. SWBT fell short of the parity standards in October 2000.

Stand Alone DSL Loop Provisioning in Arkansas

18. SWBT's results for its provisioning of Arkansas CLECs' stand alone DSL loops also defeat El Paso/PacWest's dated and nonspecific claim. In fact, SWBT's Arkansas provisioning performance is quite strong.²³

19. SWBT has met the five-day benchmark for PM 55.1-01 (Average Installation Interval – DSL – No Line Sharing – Requires No Conditioning) in each of the past seven months during which sample sizes were sufficient. Likewise, SWBT has met the ten-day benchmark for PM 55.1-02 (Average Installation Interval – DSL – No Line Sharing – Requires Conditioning) in each of the past four months during which sample sizes were sufficient. Over the past ten months, the average installation interval of 4.60 days for the 150 Arkansas CLECs' stand alone DSL loops without conditioning, and the average interval of 9.43 days for the 120 stand alone DSL loop requiring conditioning, surpassed the five-day and ten-day benchmarks for PM 55.1-01 and PM 55.1-02, respectively.

20. In addition, performance results for PM 56-12.1 (Percent (UNEs) Installations Completed Within the Customer Requested Due Date – DSL – No Line Sharing – Non-Conditioned) demonstrate that SWBT has exceeded the 95% benchmark in each of the past four months (data reporting for PM 56-12 began in May 2001). Over this period, SWBT has installed 98% (100 of 101) of the stand alone, non-conditioned DSL loops ordered by Arkansas CLECs within the requested due dates. Although Arkansas CLECs have ordered only three stand alone DSL loops with conditioning (one in July and two in August), the data for PM 56-12.2 (Percent

²³ *Id.*

(UNEs) Installations Completed Within the Customer Requested Due Date – DSL – No Line Sharing – Conditioned) demonstrate that each was installed within the requested due date.

21. SWBT's missed due date performance for provisioning stand alone DSL loops is also excellent. The performance results for PM 58-09 (Percent SWBT Caused Missed Due Dates – DSL – No Line Sharing) demonstrate that SWBT has met the 5% benchmark in each of the past eleven months. SWBT missed no due dates from February through July (and only 1 in August). Since the beginning of this year (January - August), only 2.2% (4) of the 178 stand alone DSL loops installed for CLECs by SWBT were affected by missed due dates.

22. Finally, the Arkansas stand alone DSL loops that SWBT installs are of high quality. Performance results for PM 59-08 (Percent Trouble Reports Within 30 Days of Installation – N, T, C Orders – DSL – No Line Sharing) demonstrate that SWBT has met the 6% benchmark in each of the past four months (May - August). Over the past six months (March – August), just 3.4% (5) of the 147 stand alone DSL loops installed for Arkansas CLECs were affected by installation trouble reports within 30 days of installation, well under the 6% benchmark standard. According to the results for PM 65-08 (Trouble Report Rate – DSL – No Line Sharing), SWBT has met the 3.0% benchmark in each of the last six months. During the period, trouble report rates were as low as 0.2% and did not exceed 1.6%.

DS1 Loop Provisioning in Missouri

23. El Paso/PacWest present no specific evidence that either has been denied a meaningful opportunity to compete relative to SWBT's DS1 loop provisioning in Missouri. The available evidence suggests that SWBT's provisioning performance for Missouri CLECs is solid.

24. SWBT's performance results for PM 55-04.1 (Average Installation Interval – DS1 Loop – 1-10 Loops) demonstrate that the average installation interval for Missouri CLECs' orders for ten or fewer DS1 loops over the past six months was 3.5 days, just one-half day above the three-day target. Over this period, SWBT installed 91.5% of CLECs' DS1 loops orders within the CLECs' requested due dates, just 3.5% below the 95% benchmark, according to results for PM 56-04.1 (Percent (UNEs) Installations Completed Within the Customer Requested Interval – DS1 Loop – 1-10 Loops).²⁴ These data reflect only relatively slight shortcomings from a statistical perspective. Furthermore, it is important to note that El Paso/PacWest does not prove any significant adverse competitive impact as a consequence of SWBT's performance, nor do they submit any evidence that would suggest as much.

25. Finally, SWBT's performance results have met parity in each of the past twelve months for PM 58-06 (Percent SWBT Caused Missed Due Dates – DS1 Loop). In addition, SWBT's performance has met or exceeded parity in each of the past twelve months for PM 59-05 (Percent Trouble Reports Within 30 Days of Installation – N, T, C Orders – DS1 Loop). Thus, once again, the available data reflect that Missouri CLECs have been afforded a meaningful opportunity to compete, and El Paso/PacWest provide no concrete evidence suggesting otherwise, either as to CLECs generally or as to its own operations.

²⁴ Prior to May 2001, PM 56 measured the percent within "X" days, where "X" was the standard interval. The data prior to May 2001 would only include those DS1 circuits for which the CLEC did not request a due date greater than the standard three-day interval.

Line Shared DSL Loop Provisioning in Missouri

26. Despite El Paso/PacWest's vague claim regarding installation of line shared DSL loop provisioning,²⁵ SWBT's performance provides Missouri CLECs a meaningful opportunity to compete in the data services market.

27. SWBT's performance results for PM 55.1-03 (Average Installation Interval – DSL – Line Sharing – Requires No Conditioning) demonstrate that SWBT has provided Missouri CLECs parity performance in each of the past three months, and in seven of the past nine months. Over the ten month period ended August 2001 (the period for which CLEC data are available), the average installation interval for CLECs' DSL loops with line sharing (and not requiring conditioning) has been 4.24 days, compared to ASI retail customers' 4.63 days.²⁶ Furthermore, the performance data for PM 56-14 (Percent (UNEs) Installations Completed Within the Customer Required Due Date – DSL – Line Sharing) demonstrate that SWBT has installed 94.9% (485) of Missouri CLECs' 511 DSL loops with line sharing over the past four months. And, the most recent data show even better percentages for each of the last two months (96.4% for July, and 97.8% for August).

28. Although the results for PM 58-10 (Percent SWBT Caused Missed Due Dates – DSL – Line Sharing) have not met the statistical criteria for parity over the past three months, they show steady improvement. The percentages of missed due dates for Missouri CLECs' DSL with line sharing dropped from 9.1% in June, to 3.6% in July, to 2.1% in August. Over the past

²⁵ *Id.*

²⁶ The data for PM 55.1-04 (Average Installation Interval – DSL – Line Sharing – Requires Conditioning) shows that SWBT has installed just a single DSL loop with line sharing that required conditioning for Missouri CLECs over the past twelve months for which the CLEC requested the standard interval.

three months, 95.8% (410) of Missouri CLECs' 428 DSL loops with line sharing installed by SWBT were unaffected by missed due dates. Regardless of SWBT's inability over the period to reach statistical parity, no CLEC commenter provides any evidence that it has been denied a meaningful opportunity to compete despite these high on time provisioning performance levels. Moreover, SWBT referenced certain operational issues in the affidavit of Bill VanDeBerghe filed on August 20, 2001 (App. A – MO, Tab 25 to SWBT's initial AR/MO Application, at ¶¶ 46-55), and none are addressed by any commenter.²⁷ Finally, SWBT provides Missouri CLECs high quality line shared DSL loops. SWBT's performance results have achieved parity in two of the past three months, and seven of the past nine months, for PM 59-09 (Percent Trouble Reports Within 30 Days of Installation – N, T, C Orders – DSL – Line Sharing). And, according to the results for PM 65-09 (Trouble Repot Rate – DSL – Line Sharing), trouble report rates are hovering at a very low 1.1% to 1.5% range over the last three months.

DS3 and Dark Fiber Performance Measurements

29. Finally, El Paso/PacWest claim that they “asked that SBC implement metrics to track DS-3 and dark fiber provisioning, but SBC has refused to do so.”²⁸ However, performance measurements demonstrating SWBT's performance in provisioning DS3 dedicated transport and dark fiber are in place, and performance results for these measurements are included in SWBT's

²⁷ Furthermore, to the extent that SWBT's performance is short of the parity standard, it is required to pay Tier 1 liquidated damages to CLECs and Tier 2 assessments to state treasuries. In that regard, SWBT has paid the following liquidated damages and assessments for PM 58-10 performance since January 2001:

	<u>State</u>	<u>Amount</u>
Tier 1	MO	\$150.00
	TX	\$118,279.17
	TX	\$33,300.00
	TX	\$150.00
Tier 2	KS	\$2,000.00
	TX	\$21,000.00

²⁸ *Id.*

Performance Measurements Tracking Reports for each of the five SWBT operating states (Attachments C and D). These reports are sent to the DOJ each month. Furthermore, SWBT's performance results in provisioning DS3 dedicated transport and dark fiber also are included in the CLEC-specific Performance Reports published each month on SBC's CLEC Internet website.²⁹ I would note also that in the most recent performance measurements six-month review proceeding held in Austin, no CLEC made a complaint about or even raised the matter about which El Paso/PacWest now complains.

Navigator's Nebulous "UNE T1," "Complex Services" and "Repair" Claims Cannot Be Substantiated and Do Not Account For SWBT's Strong Performance Results

30. Urging the Commission to deny SWBT's Arkansas 271 Application, Navigator presents vague claims regarding SWBT's performance for Navigator. Based on its "experience," it criticizes SWBT's "UNE T1" provisioning performance and cites an unspecified "variety of repair issues."³⁰ Navigator provides no specific facts that would enable a reasonable investigation of its claims. In any event, as explained below, the available data does not suggest that Navigator has a reason to question SWBT's wholesale performance.

²⁹ The provisioning performance measurements for these two UNEs are:

	<u>DS3 Dedicated Transport</u>	<u>Dark Fiber</u>
Average Installation Interval	PM 55-08	PM 55-10
Percent Installed Within Customer Requested Due Dates	PM 56-08	PM 56-10
Percent Missed Due Dates	PM 58-13	PM 58-14
Percent Trouble Reports within 30 Days of Installation	PM 59-12	PM 59-13
Percent Due Dates Missed – Lack of Facilities	PM 60-12	PM 60-13
Percent Due Dates Missed – Lack of Facilities > 30 Days	PM 60-29	PM 60-30
Percent Due Dates Missed – Lack of Facilities > 90 Days	PM 60-46	PM 60-47
Average Delay Days – Lack of Facilities	PM 61-12	PM 61-13
Average Delay Days for SWBT Missed Due Dates	PM 62-13	PM 62-14
Percent SWBT Caused Missed Due Dates > 30 Days	PM 63-13	PM 63-14

³⁰ *Navigator Comments* at 10, 12.

31. Navigator first complains about SWBT's alleged inability to "correctly install complex services such as a UNE T1," claiming further that: "Navigator's experience is that SWBT has been unable to install a UNE T1 correctly on the first attempt in any of the five original Midwest states. In Navigator's last two orders for UNE T1's in Arkansas, SWBT missed the committed due dates, requiring an additional 24 to 48 or more hours of coordination to correctly program SWBT Central Offices."³¹ Navigator also refers to "SWBT's repeated failure to timely perform the provisioning of complex services" without further elaboration.³²

32. Navigator's references to "UNE T1" and "complex services" are unclear. To the extent that Navigator means to refer to the provisioning of DS1 loops, a review of the data captured by PM 58-06 (Percent SWBT Missed Due Dates – DS1 Loop with Test Access) indicates that SWBT has not completed a single DS1 loop provisioning order for Navigator within the last twelve months in Arkansas. Thus, SWBT's records do not substantiate any portion of Navigator's "missed due date" or "timely" performance claims, if Navigator means to direct them to SWBT's DS1 loop provisioning in Arkansas.

33. Navigator's "experience" is also mistaken insofar as its reference to DS1 loop provisioning is to SWBT's other four states. Data captured by PM 58-06 (Percent SWBT Missed Due Dates – DS1 Loop with Test Access) indicate that SWBT has not completed a single DS1 loop provisioning order for Navigator within the last twelve months in Kansas, Oklahoma, Missouri or Texas. Thus, once again, SWBT's data do not substantiate any portion of

³¹ *Id.* at 10.

³² *Id.*

Navigator's "missed due date" or "timely" performance claims, if the claim is directed to DS1 loop provisioning in these states.

34. In an effort to further address Navigator's comments regarding "UNE T1" performance, SWBT reviewed performance data for ISDN-PRI, a service that could require the provisioning of a T1 as a transport vehicle. Performance results for PM 58-08 (% SWBT Missed Due Dates - ISDN/PRI) reflect that over the last twelve months, Navigator has not placed a single service order for ISDN-PRI that required the provisioning of a T1 transport in any of the five SWBT states, except for Arkansas. Navigator-specific Arkansas results for this and other measurements discussed below are attached to my affidavit as Attachment F.

35. SWBT's Arkansas performance results based on Navigator-specific data for PM 58-08 (Percent SWBT Caused Missed Due Dates – (UNE) ISDN-PRI (23B + 1D Channel)) show the installation of *** ISDN-PRI circuits for Navigator in October 2000, with an additional *** circuits installed for Navigator in November 2000, *** missed due dates in either month. The data, therefore, disprove Navigator's claims about "missed due dates" and that SWBT did not "timely perform the provisioning of complex services," to the extent Navigator means to refer to ISDN-PRI provisioning.³³

36. SWBT's performance results show that the quality of these circuits was excellent, which also disproves Navigator's claim that SWBT was incapable of "correctly install[ing] complex services" and its further claim that it has experience a "variety of repair issues."³⁴ Performance results for PM 59-07 (Percent Trouble Reports Within 30 Days – N, T, C Orders –

³³ *Id.*

³⁴ *Id.* at 10, 12.

ISDN-PRI Circuits) demonstrate that Navigator reported *** *** installation trouble reports for these circuits within 30 days. Further evidence of the quality of the UNE ISDN-PRI circuits SWBT installed for Navigator is provided by the performance data for PM 65-07 (Trouble Report Rate – ISDN-PRI Circuit). Navigator’s UNE ISDN-PRI circuits were affected by *** *** trouble reports, resulting in an overall trouble report rate of *** *** over the past twelve months. In both February and August, Navigator’s UNE ISDN-PRI circuits generated *** *** and *** *** trouble reports in July. As a result, Navigator’s UNE ISDN-PRI circuits were affected by trouble report rates of *** *** in February, July, and August, respectively. Finally, the data for PM 69-07 (Repeat (Trouble) Report Rate – ISDN-PRI Circuit) demonstrate that *** *** of Navigator’s trouble reports were repeat reports.

37. Navigator-specific results for other measurements are to the same effect. SWBT’s CLEC-specific performance measurement report for Navigator shows *** *** ISDN-PRI UNE trouble report that required dispatch in February 2001, *** *** in July, and *** *** in August. The performance results for PM 67-07 (Mean Time to Restore (Hours) – Dispatch – ISDN-PRI (UNE)) demonstrate that Navigator’s *** *** in February that required dispatch took *** *** to repair, compared to the average time of 3.17 hours for SWBT’s retail customers. Similarly, in July, Navigator’s *** *** ISDN-PRI trouble reports requiring dispatch were repaired within an average of *** ***, compared to the average repair interval of 1.35 hours for SWBT’s retail customers. Finally, Navigator’s *** *** in August required *** *** to restore to working order, compared to the average repair interval of 5.34 hours for SWBT’s retail customers.

38. Finally, SWBT's Arkansas-wide performance results for UNE circuits affected by trouble reports requiring dispatch provides Arkansas CLECs superior maintenance and repair response times. These data likewise undercut Navigator's own claims. The following table summarizes SWBT's average repair performance over the last twelve months.

Table 1
Average Repair Intervals for UNE Trouble Reports Requiring Dispatch
(Arkansas)

September 2000 – August 2001			
Unbundled Network Element	Performance Measurement	Mean Time to Restore Trouble Reports Requiring Dispatch (Hours)	
		Aggregate CLECs	SWBT Retail
8.0 dB Loops	PM 67-01	2.63	13.64
5.0 dB Loops	PM 67-02	2.48	6.76
BRI Loops	PM 67-03	3.74	10.84
DS1 Loops	PM 67-05	3.58	2.62
DS1 Dedicated Transport	PM 67-06	3.54	2.62
DSL – No Line Sharing	PM 67-08	4.87	9.00 *

Source: Attachment C.

* Benchmark standard applies.

The data in this table are for those UNEs for which Arkansas CLECs in the aggregate had more than five trouble reports during the past twelve months.

39. SWBT respectfully requests that the Commission disregard Navigator's vague and unsupported criticisms relating to "UNE T1," "complex services" and various unspecified "repair issues." To the extent that Navigator disagrees with the results of SWBT's research, SWBT invites it to provide more detailed information regarding the date, time, location and purchase order number associated with the provisioning, maintenance and/or repair order. In any case,

SWBT's level of performance for Arkansas CLECs in the aggregate do not support Navigator's criticisms.

SWBT's Strong Flow-Through Performance Provides CLECs a Meaningful Opportunity to Compete and Is Not Undermined By Restatements in PM 13

40. AT&T argues that because SWBT used an incorrect methodology to compute PM 13 (Order Process Percent Flow Through), its flow through data cannot be regarded as reliable.³⁵ However, AT&T's claim should be rejected. I discussed the matter of assessing SWBT's flow through performance in my initial affidavits, and the most recent performance data do not reflect that any Arkansas or Missouri CLEC has been denied a meaningful opportunity to compete relative to this performance.³⁶ I will summarize and update the performance data relative to assessing SWBT's flow through performance.

41. By way of brief background, CLEC orders for unbundled network elements which have no similar retail analogues and for UNE-P are electronically transmitted to SWBT's OSS using either the LEX or EDI interfaces. The flow through rates for CLECs' electronically transmitted LSRs using the LEX and EDI interfaces were historically calculated using only those orders known to be "MOG-eligible" (*i.e.*, eligible for Mechanized Order Generation). Otherwise stated, flow through rates for CLEC LSRs transmitted electronically were calculated for LEX and EDI service orders that actually did flow through SWBT's OSS, as a percentage of all service

³⁵ Willard/Van de Water Declaration ¶¶ 47-53; *El Paso/PacWest Comments* at 22-25.

³⁶ The issues relevant to including certain UNE-P order types in the computation of the results for PM 13-02 and PM 13-03 were extensively discussed in the *Initial Dysart Arkansas Affidavit* ¶¶ 44-48 and the *Initial Dysart Missouri Affidavit* ¶¶ 43-46. These affidavits presented restated LEX and EDI flow through data from September 2000 through April 2001 based on SWBT's interpretation and implementation of the Texas Commission's order. Order No. 33: Approving Modifications to Performance Remedy Plan and Performance Measurements, *Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas*, Texas Public Utility Commission, Project No. 20400 (filed June 1, 2000) and Attached *Matrix of Changes/Deletions to Version 1.7 ("2001 Performance Measurements Modifications Order")*.

orders capable of flowing through SWBT's mechanized ordering system without manual intervention.

42. In April, 2001, the Texas Commission held its second six-month performance measurements review workshop. As a result, the Texas Commission's *2001 Performance Measurements Modifications Order* instructed SWBT to include UNE-P orders that are not MOG-eligible in the calculation of flow through rates for LEX and EDI.³⁷ In the course of the workshop, SWBT explained that five specific UNE-P order types were not MOG-eligible and were not being included in PM 13: record orders (such as changing CLEC customers' directory information), outside move orders (moving CLEC customers' service from one location to another), suspension and restoral orders (such as suspending CLEC customers' service for non-payment and restoring the service after payment is received), and rearranges to hunt groups for CLECs' UNE-P customers.³⁸

43. During the extensive Texas collaborative process that culminated in the initial Texas Performance Plan, CLECs had identified those UNE order types, which in their view from a competitive perspective, were a high priority in terms of SWBT OSS flow through capability. They did not identify any of the foregoing five order types. Further, CLECs knew that these order types were not MOG-eligible, *i.e.*, were incapable of flowing through the mechanized OSS system without manual intervention. Even after the initial Texas Performance Plan was approved, if CLECs became concerned that their competitive interests would be compromised unless these order types were made MOG-eligible, they could have expressed a desire during the

³⁷ *2001 Performance Measurements Modifications Order* at 78.

³⁸ *Id.*

on-going change management meetings that they be made MOG-eligible. The CLECs did not do so.

44. Nonetheless, in keeping with the Texas Commission's recent order, SWBT has included in the calculation of results for PM 13-02 (Order Process Percent Flow Through – LEX) and PM 13-03 (Order Process Percent Flow Through – EDI), beginning with May 2001 performance data, each of the five UNE-P order types (record, outside move, suspensions, restorals, rearrangement to hunt groups). Consequently, data for PM 13-02 and PM 13-03 now compare CLEC orders received electronically via LEX and EDI designed to flow through SWBT's OSS systems, together with data for these five UNE-P order types not capable of flowing through without manual intervention, to comparable SWBT retail order types capable of flowing through EASE.³⁹ The most recent data reflect the following:

³⁹ However, the restatement of PM 13-02 and PM 13-03 excludes two order types that require manual intervention (CLEC orders requiring SWBT to complete a coordinated conversion with a desired frame due time outside normal working hours and CLEC orders that specify an effective bill date which could adversely affect established SWBT billing cycles and processes). In implementing the *2001 Performance Measurements Modifications Order*, SWBT has thoroughly investigated EASE order types to determine if the comparable UNE-P order types flow through LEX and EDI. SWBT has identified three groups of minor order types whose data will be included in a PM 13 restatement when final programming is completed: additions or deletions of lines to hunt groups, adding or changing certain features to existing accounts, and certain order activities for directory listings. Preliminary data from May through July 2001 indicate that the impact on LEX flow through results is in the range of 1% to 3.75% and that the impact on EDI flow through results is less than 0.1%.

Table 2
COMPARISON OF RESTATED FLOW-THROUGH DATA
(Arkansas)

	PM 13-02 – LEX CLEC Flow Through Rates		SWBT Retail Flow Through Rates - EASE	PM 13-03 - EDI CLEC Flow Through Rates	
	Original	Restated		Original	Restated
Sep-00	96.1%	95.6%	90.8%	95.0%	96.4%
Oct-00	90.0%	87.1%	89.8%	92.0%	94.8%
Nov-00	90.2%	81.6%	88.7%	95.0%	96.5%
Dec-00	79.2%	72.7%	88.8%	97.5%	98.1%
Jan-01	86.7%	66.3%	89.4%	98.0%	98.3%
Feb-01	94.4%	80.1%	88.9%	98.2%	98.2%
Mar-01	91.0%	80.2%	89.6%	97.6%	97.6%
Apr-01	86.4%	79.9%	89.4%	98.2%	98.2%
May-01	88.2%	76.5%	89.1%	98.4%	98.4%
Jun-01	91.4%	80.2%	90.1%	98.0%	98.0%
Jul-01	95.6%	90.1%	89.5%	97.5%	97.5%
Aug-01	94.9%	86.6%	90.4%	97.9%	97.8%

Restated CLEC Flow Through Rates: Includes CLEC LSRs involving UNE-P orders to suspend or restore service, change CLEC customers' records, complete outside moves, and rearrange hunt groups, but excludes the two order types that generate SD2112 and SD2029 error codes.

Original CLEC Flow Through Rates: Excludes the five above-mentioned UNE-P order types that are incapable of flowing through LEX and EDI, but includes order types that generate SD2112 and SD2029 error codes.

45. As shown above, restated Arkansas LEX flow through results represent a decrease from previously reported results. The effects of including those UNE-P order types that are not MOG-eligible on Arkansas CLECs' EDI flow through rates is negligible.

Table 3
COMPARISON OF RESTATED FLOW-THROUGH DATA
(Missouri)

	PM 13-02 – LEX CLEC Flow Through Rates		SWBT Retail Flow Through Rates - EASE	PM 13-03 – EDI CLEC Flow Through Rates	
	Original	Restated		Original	Restated
Sep-00	84.7%	83.5%	92.0%	97.8%	98.1%
Oct-00	73.5%	73.0%	90.2%	91.2%	92.3%
Nov-00	80.9%	79.9%	90.0%	92.1%	92.4%
Dec-00	81.2%	78.9%	90.5%	94.9%	95.9%
Jan-01	70.7%	68.0%	90.0%	97.4%	97.7%
Feb-01	84.6%	79.5%	89.5%	94.9%	94.8%
Mar-01	91.5%	87.1%	90.3%	92.6%	92.6%
Apr-01	91.5%	87.8%	90.1%	92.5%	92.4%
May-01	91.2%	86.3%	89.1%	89.9%	89.9%
Jun-01	89.2%	83.8%	90.4%	88.6%	88.4%
Jul-01	93.3%	87.0%	90.4%	87.8%	87.8%
Aug-01	94.2%	87.9%	91.2%	91.4%	91.3%

Restated CLEC Flow Through Rates: Includes CLEC LSRs involving UNE-P orders to suspend or restore service, change CLEC customers' records, complete outside moves, and rearrange hunt groups, but excludes the two order types that generate SD2112 and SD2029 error codes.

Original CLEC Flow Through Rates: Excludes the five above-mentioned UNE-P order types that are incapable of flowing through LEX and EDI, but includes order types that generate SD2112 and SD2029 error codes.

46. The restated flow through data for Missouri CLECs summarized above exhibit the same general characteristics as the Arkansas CLECs' data in Table 1. While LEX results slipped from previously reported results, EDI results were virtually no different.

47. For several reasons, these restated results do not mean that Arkansas or Missouri CLECs have been compromised in the flow through performance provided them. First, the FCC

has made clear that it places “more weight on EDI flow-through results than on the LEX flow-through results because EDI is the industry standard application-to-application interface.”⁴⁰

Arkansas CLECs using the EDI interface to transmit orders to SWBT’s OSS system have experienced higher flow through rates than SWBT’s retail orders in each of the past twelve months, regardless of whether UNE-P orders that are not MOG-eligible are included. Flow through rates for Missouri CLECs using the EDI interface to electronically transmit LSRs to SWBT’s mechanized OSS system were higher than those for SWBT’s retail orders in ten of the past twelve months, regardless of whether the five UNE-P order types that are not MOG-eligible are included.

48. Second, LEX restated results for Arkansas and Missouri combined, which range from 80.2% to 90.1% over the last three months, are still appreciably above the range of 70% to 80% that the Commission found in its *SBC Kansas/Oklahoma Order* provided CLECs with nondiscriminatory access to SWBT’s OSS.⁴¹ As the FCC there noted, competing carriers’ individual flow through rates vary, and “a BOC is not accountable for orders that are rejected or fail to flow through due to competing carriers’ mistakes.”⁴² And here, as in the FCC’s recent

⁴⁰ SBC Kansas/Oklahoma Order ¶ 146; Memorandum Opinion and Order, *Application by SBC Communications Inc., Southwestern Bell Telephone Company, And Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas*, 15 FCC Rcd 18354, 18444, ¶ 180 n. 489 (2000) (“*SBC Texas Order*”).

⁴¹ *SBC Kansas/Oklahoma Order* ¶ 146 & n. 403. This range is also appreciably above the range referenced in the FCC’s most recent 271 approval order. Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-138, FCC 01-269, ¶ 49 (rel. Sept. 19, 2001) (“*Verizon Pennsylvania Order*”) (observing that Verizon’s flow through performance ranged “from about 54 to 66.5 percent from February 2001 through June 2001”).

⁴² *SBC Kansas/Oklahoma Order* ¶ 146.

Verizon Pennsylvania Order, some competing carriers attain much higher flow through rates than others.⁴³

49. Third, the percentage of mechanized orders that are completed by SWBT as ordered by CLECs is very high. SWBT's PM 12 (Mechanized USOC Provisioning Accuracy) compares the USOCs ordered by CLECs on a mechanized service order to those actually provisioned (based on the posted service order). According to the results of PM 12, SWBT has consistently provisioned Arkansas and Missouri CLECs' orders at above a 95% accuracy rate, and has consistently provided these CLECs parity service.⁴⁴ This outstanding performance deserves consideration, as the FCC relied on data reflecting accuracy in processing orders in its *Verizon Pennsylvania Order* flow through analysis.⁴⁵

50. Fourth, SWBT's EASE flow through performance for Arkansas and Missouri CLECs remains excellent. EASE is the same system used by SWBT's service representatives to process retail orders. Arkansas performance results for PM 13-01 (Order Process Percent Flow Through – EASE) demonstrate that SWBT has achieved parity in each of the past twelve months. Missouri performance results for PM 13-01 demonstrate that SWBT has achieved parity in five of the past six months, and in ten of the past twelve months. Over the twelve month period ended August 2001, for LSRs using the EASE interface, Arkansas and Missouri CLECs

⁴³ *Verizon Pennsylvania Order* ¶ 49; see also, Affidavit of Beth Lawson for Arkansas, filed August 20, 2001, ¶¶ 184-185, 187-188 (App. A – AR, Tab 13 to SWBT's initial AR/MO Application); Affidavit of Beth Lawson for Missouri, filed August 20, 2001, ¶¶ 184-185, 187-188 (App. A – MO, Tab 14 to SWBT's initial AR/MO Application).

⁴⁴ In Arkansas, SWBT has achieved parity for PM 12-01 (Mechanized USOC Provisioning Accuracy) in each of the last twelve months, has achieved parity for PM 12.1-01 (Percent Provisioning Accuracy for Non-Flow Through Orders) in each of the last five months, and has provided at least 97% provisioning accuracy in each of the last three months. In Missouri, SWBT has achieved parity for PM 12-01 in each of the last twelve months, has achieved parity for PM 12.1-01 in each of the last seven months, and has provided at least 95% provisioning accuracy in each of the last six months.

experienced 99.0% and 91.5% flow through rates, respectively, compared to SWBT's 89.6% flow through rate for retail orders in Arkansas and 90.3% in Missouri. This excellent flow through performance is informative, because CLECs tend to rely on EASE to the same extent that they rely on LEX, if not more.⁴⁶

51. Finally, no CLEC demonstrates that SWBT's implementation of PM 13 has caused "significant competitive impact."⁴⁷ Collectively, record orders, outside move orders, suspension/restoral orders, and hunt group rearrangement orders are of far less competitive significance than those orders SWBT had otherwise captured within the data for PM 13. Thus, it may well be the case that the results that SWBT previously reported for PM 13 are at least as informative, if not more, than the restated results.

52. In sum, AT&T has no cause to criticize SWBT's PM 13 performance or the manner in which SWBT previously implemented this measurement. Irrespective of whether previously reported results or restated results are relied on for purposes of performance analysis, the conclusion remains the same: SWBT has provided Arkansas and Missouri CLECs a meaningful opportunity to compete relative to flow through performance.⁴⁸

⁴⁵ *Verizon Pennsylvania Order* ¶ 49 & n. 190 (referencing a percentage range from 85% to 99%).

⁴⁶ In Arkansas, for example, the number of EASE orders for the last three months averaged 7,240, while the number of LEX orders for the same period averaged 5,883. In Missouri, the number of EASE orders for the last three months averaged 10,667, while the number of LEX orders for the same period averaged 10,877. (Attachments C & D, PM 13-01 and PM 13-02).

⁴⁷ *SBC Kansas/Oklahoma Order* ¶ 146 ("We conclude that the LEX flow-through rate in Oklahoma indicates that competing carriers' orders are handled in a nondiscriminatory manner and, absent evidence of significant competitive impact, this satisfies our inquiry on this matter.").

⁴⁸ SWBT has likewise provided CLECs with nondiscriminatory access with respect to checklist item (vii), which includes 911/E-911 and directory assistance services. In both Arkansas and Missouri, SWBT has consistently met or surpassed the performance standards associated with all but one of the nine pertinent measurements for which data are sufficient (PM 80-01, PM 82-01, PM 103-01, PM 104-01, PM 104.1-01, PM 110-01, PM 111-01 and PM 112-01). (Attachments A and B; *Initial Dysart Arkansas Affidavit*, Attachment K; *Initial Dysart Missouri Affidavit*, Attachment K) The lone exception is PM 113-01 (Percentage of Electronic Updates that Flow Through the

THE CLECS' REMEDY PLAN COMPLAINTS SHOULD BE REJECTED

53. AT&T argues that SWBT's Missouri and Arkansas Performance Remedy Plans⁴⁹ are deficient. Its argument is based on two claims regarding SWBT's implementation of the Texas remedy plan upon which the Missouri and Arkansas plans are modeled. AT&T's first claim is that "SWBT's recent conduct in Texas confirms that its remedy plans are not self-executing."⁵⁰ Its second claim is that "SWBT's recent conduct in Texas confirms that it has not implemented and will not implement changes to measures and penalties."⁵¹ However, AT&T's supporting evidence neither fairly conveys all of the pertinent facts regarding SWBT's implementation of its Performance Remedy Plans (which include both measurements and remedy provisions) nor does that evidence support the broad claims AT&T makes regarding the strength of those plans.

54. Sprint also is concerned that SWBT's Performance Remedy Plans may not prevent backsliding in Arkansas.⁵² Sprint's concern is unfounded.

Directory Service Request ("DSR") Process Without Manual Intervention). However, CLECs rely on manually submitted updates in greater numbers over the last three months. (Attachments C and D), and results for PM 110-01 (Percentage of Updates Completed into the DA Database Within 72 Hours for Facility Based CLECs) reflect that SWBT has regularly met the 95% benchmark standard in both states. In addition, no CLEC in this proceeding suggests that SWBT's PM 113-01 performance has denied it a meaningful opportunity to compete in either state (*i.e.*, no CLEC argues that the lack of electronic flow through on PM 113 had any adverse effect on the timeliness of updating the DA database). Moreover, software enhancements that should help SWBT improve its performance are scheduled to be completed in June, 2002. Given all the circumstances, SWBT's strong performance across the several measurements associated with checklist item (vii) should prevail over its performance for this single measure. *SBC Kansas/Oklahoma* ¶ 32 (indicating that where there are "multiple performance measurements associated with a particular checklist item" the FCC will consider "performance demonstrated by all the measurements as a whole").

⁴⁹ In a portion of my earlier Arkansas affidavit, I mistakenly referred to Missouri. "Arkansas" should be substituted in the place of "Missouri" in both footnotes 14 and 15 of the *Initial Dysart Arkansas Affidavit*.

⁵⁰ *AT&T Comments* at 52-55; *DeYoung Declaration* ¶¶ 10-26.

⁵¹ *AT&T Comments* at 56-60; *DeYoung Declaration* ¶¶ 27-40.

⁵² *Sprint Comments* at 15-17.